

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO.1699 OF 2007

Rakesh N. Dutt .. Petitioner.
Versus
Deputy Commissioner of Income-tax-
10(1) and others, .. Respondents.

Mr.S.N. Inamdar with Mr.A.K. Jasani for the
petitioner.

Mr.Vimal Gupta for the respondents.

CORAM : F.I. REBELLO &
J.P. DEVADHAR, JJ.

DATED : 13TH AUGUST, 2007.

P.C. :

1. Not on board. By consent of parties, taken
up for final hearing. Heard forthwith.

2. In respect of notice issued under Section
148 of the Income Tax Act, 1961, the petitioners had
filed various objections. The Assessing Officer by
communication dated 26th July, 2007 observed that
the objections raised have no merit and rejected the
same. That is the subject matter of the present
petition.

3. Once objections were raised, the Assessing
Officer was bound to give some reasons, may be not
elaborate for rejecting the said objections. In the
instant case, we find no reasons given at all except

reiterating the earlier reasons recorded. In other words, as if the reasons recorded are final and the objections were not worthy of any credit. In our opinion, this was not a proper approach. The Assessing Officer ought to have considered the objections and rejected them by giving reasons.

4. It is the contention of the learned counsel for the petitioner that the issue is squarely covered by the Judgment of this court in the case of Lotus Investments Ltd. V/s. G.Y. Wagh, Assistant Commissioner of Income-tax & Others reported in [1007] 288 ITR 459 (Bom). It will be open to the Assessing Officer to consider the ratio of the said judgment.

5. Considering the above, impugned communication dated 26th July, 2007 is set aside and the matter is remanded back to the Respondent No.1 for passing fresh order according to law.

6. If the order is adverse to the petitioner, the same may not be acted upon for a period of four weeks from the date of such order.

7. With these observations, the writ petition stands disposed of with no order as to costs.

(J.P. DEVADHAR, J.)

(F.I. REBELLO, J.)